



AN ASSOCIATION OF
MONTANA HEALTH
CARE PROVIDERS

EXHIBIT 1
DATE 2/15/07
HB SS1

**MHA Testimony on HB 551
Before the House Local Government Committee**

**By Bob Olsen, Vice President
February 15, 2007**

MHA opposes adoption of House Bill 551, a bill that caps county financial obligation for pre-commitment medical costs to 6 days of care. Except for the Montana State Hospital at Warm Springs, hospitals are private organizations that provide inpatient psychiatric care while a person is examined and considered for commitment to the Montana State Hospital. HB 551 is, simply put, a takings action. The government is proposing to consume private services without compensation.

Current law provides that the cost to detain and care for these patients is the county's responsibility. But hospitals, as private organizations, are not required to provide this care. MCA 53-21-120 states that the state wants detention and pre-commitment services to be provided as close to the person's home as possible. St. Patrick Hospital in Missoula, Billings Clinic, Kalispell Regional Medical Center and Benefis Health Systems are usually the local hospitals that provide that care.

Mental health services are already poorly financed by government payers. HB 551 has a chilling effect on the willingness of hospitals to maintain services at the current level. A significant effort being put forward in the State budget hopes to encourage expansion of crisis intervention care in local communities. HB 551, since it places the hospital at risk of not being paid for their services, will work against that State goal.

Local hospitals are not required to provide the services needed by the counties. MCA 53-21-120 (2) provides that a local hospital must agree to provide the services. If the funding provided by the county decreases too much, the hospital may have to refuse to treat those patients. This means the patient must be transported to a different facility, or the Montana State Hospital.

MHA notes that patients who face commitment are not kept at the hospital voluntarily. The hospital does not control the examination, the hours or days during which county attorneys work on cases, or when courts meet. The hospital is not responsible for the timeliness of transport. Since hospitals don't control the process they should not bear the financial risk for long hospital stays.

MHA urges the Committee not to approve the bill.

Montana Code Annotated 2005

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

53-21-120. Detention to be in least restrictive environment -- preference for mental health facility -- court relief -- prehearing detention of mentally ill person prohibited. (1) A person detained pursuant to this part must be detained in the least restrictive environment required to protect the life and physical safety of the person detained or members of the public; in this respect, prevention of significant injury to property may be considered.

(2) Whenever possible, a person detained pursuant to this part must be detained in a mental health facility and in the county of residence. If the person detained demands a jury trial and the trial cannot be held within 7 days, subject to the provisions in 53-21-193, the individual may be sent to the state hospital or a behavioral health inpatient facility until the time of trial if arrangements can be made to return the person to trial. The trial must be held within 30 days. The county of residence shall pay the cost of travel and professional services associated with the trial. A person may not be detained in any hospital or other medical facility that is not a mental health facility unless the hospital or facility has agreed in writing to admit the person.]*

(3) A person may not be detained pursuant to this part in a jail or other correctional facility.

(4) A person detained prior to involuntary commitment may apply to the court for immediate relief with respect to the need for detention or the adequacy of the facility being utilized to detain.

History: En. 38-1304 by Sec. 4, Ch. 466, L. 1975; amd. Sec. 4, Ch. 546, L. 1977; R.C.M. 1947, 38-1304(5); amd. Sec. 7, Ch. 547, L. 1979; amd. Sec. 5, Ch. 376, L. 1987; amd. Sec. 1, Ch. 360, L. 1989; amd. Sec. 1, Ch. 636, L. 1991; amd. Sec. 4, Ch. 513, L. 2003.

Provided by Montana Legislative Services